



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,556	02/27/2004	Kevin S. Beyer	SVL920030140US1/3026P	7077
45728	7590	09/30/2011		
IBM_SVL c/o Sawyer Law Group, P.C. P.O. Box 51418 Palo Alto, CA 94303			EXAMINER DARNO, PATRICK A	
			ART UNIT 2158	PAPER NUMBER
			NOTIFICATION DATE 09/30/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@sawyerlawgroup.com

**Notice of Abandonment****Application No.**

10/788,556

**Applicant(s)**

BEYER ET AL.

**Examiner**

PATRICK DARNO

**Art Unit**

2158

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_.
- (a) ☐ A reply was received on \_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_ month(s)) which expired on \_\_\_\_.
- (b) ☐ A proposed reply was received on \_\_\_\_ but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- (c) ☐ A reply was received on \_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
- (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
- (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
- (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
- (a) ☐ Proposed corrected drawings were received on \_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_), which is after the expiration of the period for reply.
- (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☒ The decision by the Board of Patent Appeals and Interference rendered on 30 June 2011 and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:  
See Continuation Sheet

/Mohammad Ali/  
Supervisory Patent Examiner, Art Unit 2158/Patrick A. Darno/  
Examiner, Art Unit 2158

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Other reasons for holding abandonment:

Appellant's representative, Joe Sawyer, acknowledged in a phone call on Sept. 13, 2011 that no response to the BPAI decision has been mailed.

It is noted that claim 6 stands rejected under the reasons set forth on pgs. 7-8 of the Examiner's Final Rejection mailed 09/29/2006 and pg. 7 of the Examiner's Answer mailed 10/11/2007. In the telephone call on Sept. 13, 2011 Appellant's asserted that Appellant's were awaiting action by the Examiner because page 6 of the BPAI decision did not indicate that the rejection of claim 6 had been affirmed. However, it is noted that page 5 of Appellant's Appeal Brief indicates that the rejection of claim 6 was not appealed by the Appellant. Therefore, the fact that the BPAI did not address the rejection of claim 6 appears to be proper...